IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF NORTH CAROLINA ASHEVILLE DIVISION CIVIL CASE NO. 1:20-cv-00363-MR

CHRISTOPHER LEE MICHELSON,)
Plaintiff,)
vs.)
QUINTIN MILLER, et al.,	ORDER
Defendants.)

THIS MATTER is before the Court on Plaintiff's Motion to Vacate the Court's Order for Partial Payment Filing Fees While Incarcerated [Doc. 9].

Pro se incarcerated Plaintiff filed this civil rights action pursuant to 42 U.S.C. § 1983 and filed an Application to proceed without prepaying the filing fee pursuant to the Prison Litigation Reform Act (PLRA). [See Doc. 2]; 28 U.S.C. § 1915(b). The Court granted his Application and entered an Order waiving the initial partial filing fee and directing the correctional facility to transmit partial payments from his prisoner account until the \$350 filing fee is paid in full in accordance with the PLRA. [Doc. 7].

The Plaintiff now asks the Court vacate the Order for partial payment from his prison account because he has been released from custody and is making payments himself.¹

The Motion is denied as moot. The Plaintiff has been released from prison, and therefore, he has no prisoner account from which to deduct the remaining payments. See DeBlasio v. Gilmore, 315 F.3d 396, 398 (4th Cir. 2003) (noting that an individual who has been released from prison has no prisoner's account from which to deduct the remaining payments). The Court notes that the Plaintiff may now attempt to satisfy the poverty provision that applies to non-prisoners, should he wish to do so.² Id. at 399.

IT IS, THEREFORE, ORDERED that Plaintiff's Motion to Vacate the Court's Order for Partial Payment Filing Fees While Incarcerated [Doc. 9] is DENIED AS MOOT.

IT IS SO ORDERED.

Signed: April 14, 2021

Martin Reidinger

Chief United States District Judge

¹ The North Carolina Department of Public Safety's website indicates that the Plaintiff was released on March 15, 2021. <u>See</u> https://webapps.doc.state.nc.us/opi/offendersearch.do?method=view (last visited Apr. 13, 2021).

² The application to proceed without the prepayment of costs and fees is available on the Court's website, http://www.ncwd.uscourts.gov.